

UNIFORM LAW COMMISSION



Why Lawmakers Shouldn't Trust the Uniform Law Commission or American Law Institute—Two of America's Biggest Threats to Freedom

By Justin Haskins

The American Law Institute (ALI) and Uniform Law Commission (ULC) are two of the most influential public policy organizations in the United States. Although few voters have heard of these institutions, their impact is felt daily by every American.

1

Background

Among other activities, the American Law Institute and ULC impact society and public policy by drafting and proposing uniform legislation for adoption in all 50 states.¹ Every state has numerous laws that were first developed by the ALI and ULC, the most notable of which is the Uniform Commercial Code, a far-reaching law that affects commercial activity across the United States.²

Although the Uniform Law Commission is well known among state legislators and many lawyers, the American Law Institute is just as important, especially when it comes to the Uniform Commercial Code. The ALI and ULC work together as partners to develop periodic changes to the UCC, a relationship that first developed more than 80 years ago.

As the ULC notes on its website, “In 1942, the ULC and the American Law Institute joined in a partnership that put all the component commercial laws together in a comprehensive Uniform Commercial Code that was offered to the states for their consideration in 1951.”³

Further, in a section of the Uniform Law Commission’s website titled “The UCC Today,” the ULC wrote, “The UCC is maintained under the guidance of the Permanent Editorial Board for the Uniform Commercial Code (PEB), comprised of members appointed by the ULC and the ALI.”⁴

Most lawmakers think of the Uniform Commercial Code as a non-controversial, highly effective piece of legislation drafted by nonpartisan lawyers interested in streamlining commercial activity. Although the UCC might have been beneficial in making nationwide commercial activity more efficient decades ago, it certainly is not the case any longer.

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1 “About Us,” Uniform Law Commission, [uniformlaws.org](https://www.uniformlaws.org/aboutulc/overview), last accessed May 14, 2024, <https://www.uniformlaws.org/aboutulc/overview>

2 “Uniform Commercial Code,” Uniform Law Commission, [uniformlaws.org](https://www.uniformlaws.org/acts/ucc), last accessed May 14, 2024, <https://www.uniformlaws.org/acts/ucc>

3 “Uniform Commercial Code,” Uniform Law Commission.

4 “Uniform Commercial Code,” Uniform Law Commission.

The modern UCC is heavily influenced by a highly partisan, radical group of activist lawyers and law professors. That does not mean every part of the UCC is rotten to the core, but state lawmakers should tread carefully before choosing to enact legislative changes recommended by the ALI or ULC. Additionally, state legislators should also spend significant time reviewing existing laws that have been put into place in recent decades at the recommendation of these groups or their allies.

2

ALI's Left-Wing Leadership

For years, the American Law Institute has for years had progressive lawyers working in high-profile positions within its organization. For example, from 2014 to 2022, Richard Revesz served as ALI's director.⁵ ALI's director is responsible for working with the Projects Committee to generate ideas that fulfill ALI's mission.⁶ The director also "investigates a potential project and develops a project proposal, which usually includes a prospectus from a proposed Reporter or Reporters."⁷

Revesz played a pivotal role in shaping the direction of ALI and its many important projects during his eight years as director. This is noteworthy because Revesz is a partisan political figure with close ties to the highest rungs of power in the Democrat Party.

In late 2022, President Joe Biden nominated Revesz to become the administrator of the U.S. Office of Information and Regulatory Affairs (OIRA), a position commonly referred to as the "rules czar."⁸ Revesz left ALI in 2022 and officially joined the White House in January 2023.⁹

As Biden's rules czar, Revesz works within the Executive Office of the President, where he's responsible for overseeing "the United States Government's central authority for the review of Executive Branch regulations, approval of Government information collections, establishment of Government statistical practices, and coordination of federal privacy policy."¹⁰

Revesz has a reputation for embracing far-left progressive views. For instance, shortly after being confirmed as Biden's administrator of OIRA, one *Bloomberg Law* headline declared, "New Regulation Head Revesz Seen as Most Progressive Rules Czar," a designation he has received

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5 "Richard L. Revesz," The American Law Institute, ali.org, last accessed May 14, 2024, <https://www.ali.org/members/member/100047>.

6 "How the Institute Works," The American Law Institute, ali.org, last accessed May 14, 2024, <https://www.ali.org/about-ali/how-institute-works>.

7 "How the Institute Works," The American Law Institute.

8 Jennifer Hijazi, "New Regulation Head Revesz Seen as Most Progressive Rules Czar," *Bloomberg Law*, December 22, 2022, <https://news.bloomberglaw.com/environment-and-energy/new-regulation-head-revesz-seen-as-most-progressive-rules-czar>.

9 "Richard Revesz confirmed as head of the White House OMB's Office of Information and Regulatory Affairs," NYU School of Law, law.nyu.edu, December 29, 2022, <https://www.law.nyu.edu/news/richard-revesz-oira-confirmation>.

10 This is a general description of the position provided by the Obama administration, as shown in "Office of Information and Regulatory Affairs," Office of Management and Budget, last accessed May 14, 2024, <https://obamawhitehouse.archives.gov/omb/oira>.

largely due to his radical views on environmental policy.¹¹

Revesz has earned a high degree of praise from progressive leaders and media outlets. For example, in May 2023, *The New York Times* wrote a glowing profile about Revesz.¹² Further, in that same report, the *Times* noted that leftist Supreme Court Justice Elena Kagan reveres Revesz, calling him “a legend.”¹³ Similarly, the *Times* reported that John Podesta—who served in the Clinton and Obama administrations and now works as Biden’s special presidential envoy for climate—considers Revesz to be his personal hero.¹⁴

The recent work produced by ALI and ULC has unquestionably been affected by Revesz, who is a strong supporter of progressive and socialistic causes. Those facts alone should make pro-liberty legislators think carefully before embracing any policy recommendations produced by either group.

3

Diane P. Wood

Following Revesz’s departure, ALI chose another far-left lawyer to replace him as director, Diane P. Wood.¹⁵ In addition to serving as ALI’s director, Wood is a senior lecturer at the University of Chicago’s Law School.¹⁶ Prior to working as ALI’s director, Wood served on the Seventh Circuit of the U.S. Court of Appeals.¹⁷ She was that court’s chief judge from 2013 to 2020.¹⁸

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For example, in *Bevis v. City of Naperville*, Wood ruled that so-called “assault weapons” are *not* protected by the Second Amendment of the U.S. Constitution because “assault weapons and high-capacity magazines are much more like machineguns and military grade weaponry than they are like the many different types of firearms that are used for individual self-defense (or so the legislature was entitled to conclude).”¹⁹

In 2020, Wood ruled in favor of upholding draconian COVID-19 lockdown rules imposed in Illinois by Gov. J.B. Pritzker.²⁰ (The Illinois Republican Party was the plaintiff in the case.)

11 Jennifer Hijazi, “New Regulation Head Revesz Seen as Most Progressive Rules Czar.”

12 Coral Davenport, “You’ve Never Heard of Him, but He’s Remaking the Pollution Fight,” *The New York Times*, nytimes.com, updated June 2, 2023, <https://www.nytimes.com/2023/05/28/climate/ricky-revesz-oira-regulation-biden.html>.

13 Coral Davenport, “You’ve Never Heard of Him, but He’s Remaking the Pollution Fight.”

14 Coral Davenport, “You’ve Never Heard of Him, but He’s Remaking the Pollution Fight.”

15 “Officers and Council,” The American Law Institute, ali.org, last accessed May 14, 2024, <https://www.ali.org/about-ali/governance/officers-council>.

16 “The Hon. Diane P. Wood,” The American Law Institute, ali.org, last accessed May 14, 2024, <https://www.ali.org/members/member/103078>.

17 “The Hon. Diane P. Wood,” The American Law Institute.

18 “The Hon. Diane P. Wood,” The American Law Institute.

19 *Bevis v. City of Naperville* (7th Cir. 2023), <https://tinyurl.com/32hvk2w3>.

20 *Illinois Republican Party v. Pritzker* (7th Cir. 2020), <https://tinyurl.com/ys2zwjmi>.

In 2018, Wood wrote a concurring opinion in favor of striking down an Indiana law that required aborted babies to be properly cremated and buried. *The Wall Street Journal* later reported that when the case reached the Supreme Court, Justice Ruth Bader Ginsburg sided with Wood’s opinion, particularly Wood’s concern that the regulation would impose a burden on women “because of the potential stigmatizing impact of these measures.”²¹

As these and many other cases illustrate, Wood is no friend of conservative or pro-liberty causes, making her highly influential position with the American Law Institute a cause for serious concern.

There are numerous other leftists who regularly work with the ALI too. For example, Janet Napolitano is a “life member” at ALI and is also part of the group’s Council of experts.²² Napolitano is currently a professor at the far-left University of California-Berkeley, and she served as the U.S. Secretary of Homeland Security under President Barack Obama.²³ Napolitano also is presently a member of the Biden administration’s President’s Intelligence Advisory Board.²⁴

4

Public Health Authority Bill

The ALI is not alone in its embrace of left-wing ideology. The Uniform Law Commission has also adopted radical views that should undermine its reputation among legislators who support individual rights and upholding the U.S. Constitution.

For example, the ULC recently drafted authoritarian model legislation titled the Public-Health Emergency Authority Act (PHEAA), which was formally approved and endorsed by the ULC in 2023. Essentially, it would allow governors to become quasi-dictators in the event of another “public health emergency.”^{25, 26}

If the ULC has its way, governors would, among other things, have the authority to unilaterally declare public health emergencies and easily renew those emergency orders when a predetermined expiration period ends.²⁷

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21 Jess Bravin, “Supreme Court Won’t Reinstate Indiana Ban on Abortion for Sex Selection,” *The Wall Street Journal*, wsj.com, updated May 28, 2019, <https://www.wsj.com/articles/supreme-court-wont-reinstate-indiana-ban-on-abortion-for-sex-selection-11559053382>.

22 “Professor Janet Napolitano,” The American Law Institute, ali.org, last accessed May 14, 2024, <https://www.ali.org/members/member/101818>.

23 “Professor Janet Napolitano,” The American Law Institute.

24 “President Biden Announces Appointments to the President’s Intelligence Advisory Board and the National Science Board,” whitehouse.gov, May 4, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/04/president-biden-announces-appointments-to-the-presidents-intelligence-advisory-board-and-the-national-science-board>.

25 The text in this paragraph is a modified version of text used in Justin Haskins, “Meet the Uniform Law Commission, the Biggest Threat to Freedom that You’ve Never Heard of,” Townhall.com, February 6, 2024, <https://townhall.com/columnists/justinhaskins/2024/02/06/meet-the-uniform-law-commission-the-biggest-threat-to-freedom-that-youve-never-heard-of-n2634835>. The text is reused in this paper with permission.

26 “Public-Health Emergency Authority Act,” Uniform Law Commission, uniformlaws.org, last accessed May 15, 2024, <https://www.uniformlaws.org/committees/community-home?CommunityKey=7a88c160-5910-4e41-9dff-018a850ef3b2>.

27 The text in this paragraph is a modified version of text used in Justin Haskins, “Meet the Uniform Law Commission, the Biggest Threat to Freedom that You’ve Never Heard of.” The text is reused in this paper with permission.

In the midst of a public health emergency, governors would be empowered to regulate nearly every aspect of citizens' lives, including, for example, the "zoning, operation, commandeering, management, or use of buildings, shelters, facilities, parks, outdoor space, or other physical space, and the management of activities in those places."^{28, 29}

It's not a stretch to say that the Public-Health Emergency Authority Act is one of the most authoritarian bills ever drafted, and the ULC isn't just a supporter of this legislation, it carefully drafted the bill after months of deliberation.

5

Past and Present Controversies

Over the past few years, lawmakers in states across the country have been warned about existing problems with the Uniform Commercial Code, as well as new proposals to revise the UCC made by ALI and the Uniform Law Commission.³⁰ In many of those cases, lawmakers were repeatedly promised that concerns over the UCC are overblown and that the experts at the Uniform Law Commission and American Law Institute are nonpartisan academics who have the good of all citizens in mind. *Trust the experts*, they were told. *They know best*.

It's true that the UCC is an incredibly complex piece of legislation, which explains why lawmakers have turned to lawyers at the ULC and ALI for help. But as this short paper clearly shows, these groups should not be trusted as neutral parties, independent sources of information, or cool-headed experts who do not take strong ideological positions. Many of the people working on the Uniform Commercial Code and other model legislation produced by the ULC and ALI have a left-wing agenda and close ties to the Democrat Party.

Pro-liberty lawmakers should, as always, hear the advice of all sides and take those opinions into consideration when making legislative decisions. However, they should not under any circumstances give the partisans at the ULC and ALI the benefit of the doubt. Quite the opposite should occur, in fact. Members of the ULC and ALI should be held to a high standard of scrutiny, along with all of the legislation that they have drafted in the past and will draft in the future.

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29 "Public-Health Emergency Authority Act," Uniform Law Commission.

30 For examples, see Jack McPherrin and Justin Haskins, "Revising the Uniform Commercial Code to Protect Americans' Property Rights and Impede a U.S. Central Bank Digital Currency," *Policy Tip Sheet*, The Heartland Institute, Henry Dearborn Liberty Network, and Pro-Family Legislative Network, February 2024, <https://mylibertynetwork.com/2024/02/revising-the-uniform-commercial-code-to-protect-americans-property-rights-and-impede-a-u-s-central-bank-digital-currency>.